

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ELVIA MORALES,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-12-02569
	§	
PANDA RESTAURANT GROUP, INC.,	§	
PANDA EXPRESS, INC., and	§	
DOES 1-20,	§	
	§	
Defendants.	§	

ORDER

Among certain motions that are substantive, also pending are Defendants Panda Restaurant Group, Inc.'s and Panda Express, Inc.'s ("Defendants") Motion to Strike Plaintiff's Response to Defendants' Motion for Summary Judgment (Document No. 42) and Plaintiff Elvia Morales's ("Plaintiff") Motion for Leave to File Sur-Reply to Defendants' Reply in Support of Summary Judgment (Document No. 46).

Plaintiff filed her Response to Defendants' Motion for Summary Judgment three days late and exceeded the page limit by four pages, without leave of Court, for which reasons Defendants move to strike Plaintiff's response.¹ Defendants were granted leave to file a motion of 30 pages in length, and the Court routinely allows the adverse party an equal pages enlargement. Plaintiff's filing three days late, although not approved by the Court, in this instance does not prejudice Defendants and has not delayed the Court's work,

¹ Document No. 42.

and will therefore in the Court's discretion be allowed. The Motion to Strike Plaintiff's Response to Defendants' Motion for Summary Judgment (Document No. 42) is DENIED.

Defendants filed as a single document their Objection to and Motion to Strike Plaintiff's Summary Judgment Evidence and Reply in Support of Motion for Summary Judgment. A sur-reply on the merits of Defendants' Motion for Summary Judgment is unnecessary. See Murray v. TXU Corp., CIV.A. 303CV0888P, 2005 WL 1313412, at *4 (N.D. Tex. May 27, 2005) ("A sur-reply is appropriate by the non-movant only when the movant raises new legal theories or attempts to present new evidence at the reply stage."). However, Plaintiff may, within seven (7) days from the date of this Order, file a response to Defendants' evidentiary objections and motion to strike evidence.

It is SO ORDERED.

The Clerk will enter this Order, providing a correct copy to all parties of record.

SIGNED at Houston, Texas, on this 8th day of April, 2014.


EWING WERLEIN, JR.
UNITED STATES DISTRICT JUDGE